V.—RULES REGARDING ALLUVION AND DILUVION, OWING TO CHANGES IN THE COURSE OF THE RIVER INDUS, OR OTHER WATERS, IN THE PROVINCE OF SIND.

Commencing in Sind, May 22nd, 1852.

1. Any land, separated from the main banks of the river or sea-shore by a channel which contains water throughout its length during the whole year, is to be considered an island.

2. Islands newly thrown up by the river or sea are the property of Government.

†3. All new land not separated from the main land by a channel containing water throughout its length during the whole year, is to be considered as the property of the owner of the old land to which it is annexed, subject to Government assessment in the cases provided for in the rules below.

4. These rules hold good only in cases of lands newly thrown up by the river in such a manner as to make it impossible to identify them with any lands which may have previously existed on the same spot, and been since swept away. If the river, by a sudden change in its course, *cut off a portion* of an estate without gradual encroachment, so as merely to separate such portion of land from the rest of the estate to which it previously belonged, without destroying the identity or preventing the recognition of the land so cut off, then the land, on being clearly and unmistakeably identified, will continue to be held on the same tenure as before its separation.

5. But no weight should be allowed to the pretended recognition of lands which have been so entirely swept away at some previous period, that they disappeared during the whole of a season, and which, on the river again changing its course, are supposed to re-appear merely because in situation or composition they somewhat resemble those previously swept away. These would come under Rules 2 and 3.

6. Where lands bordering on the river are leased out by Government,* it is to be the rule that whenever $\frac{1}{10}$th of the land, or a portion of the land yielding $\frac{1}{10}$th of the rental, may be swept away, the lessee can claim a re-settlement of the estate. On the other hand, the Government can assert no claim to assess any increment to lands so leased, unless it amount in extent or produce to more than $\frac{1}{10}$th of the estate leased.

* According to the rule in the N.-W. Provinces, para. 210.

7. This rule should be observed even though no provision for such a contingency may have been made in the original lease.

† Rule 3 relates to the case of the *owner* of land. Section 64 of the B. L. R. C., 1879, when in force, applies to the *occupant*. (G. R. 1649, 11th March 1882, R. D.). The ordinary law independent of the B. L. R. C. is that riparian proprietor becomes the owner of land gained from a river by gradual accretion (*incrementum latens*). (2 B. H. C. R. 366, revised edn.; *see* also 6 Moore's Indian Appeals 267.)

8. When a revision of settlement takes place under these rules on the plea of diluvion, if the total assets of the whole estate settled be found to be from any cause, as large as, or larger than, they were computed to be at the time of settlement, the claim for reduction in the lease will be disallowed. If they be less, a proportionate deduction will be allowed, the assessment being calculated on the whole existing assets, in the same manner as when the settlement was originally made.

Rule para. 262 of Directions for Revenue Officers, N.-W. Provinces, No. 211.

9. And when Government claim an increase of assessment, on account of increment above $\frac{1}{10}$th, the lessee may, at his option, either have the whole estate resettled, or come under a new engagement, for the sum which may be demandable upon the newly accrued portion alone.

10. Remissions of assessment granted on account of diluvion in fixed leases, are to be reported to the Commissioner; and likewise increase of assessment on account of alluvion.

11. Holders of lands in jághir, or on other rent-free tenure, are to be left in possession of all lands attached to their estates under Rule 3, provided the increment do not exceed, by more than 10 per cent., the land which they held at the date of the latest confirmatory grant issued by competent authority.

12. If the increment exceed 10 per cent. all lands, beyond those previously held under sanction of competent authority, will be liable to assessment, but remain the property of the holder of the original rent-free estate.

13. In cases, however, where a certain fixed quantity of land has been granted rent-free, and not a village *mukan* or estate, then the holder can have no claim on any increment to his original lands.

14. If any claim being preferred by Government to assess lands newly attached to rent-free estates it be proved that more or an equal amount of land has, since the date of the last confirmatory grant to the rent-free holder, been lost by diluvion from the same estate, then the claim to assess shall be disallowed.

15. This plea is in no case to hold good, with reference to lands which had been swept away before the conquest of Sind.

16. If a rent-free estate be entirely carried away the holder will have no claim to a new grant, nor in the event of new lands being subsequently formed by the river again receding will the rent-free estate be revived. The new lands will be an increment to the estate to which they are attached under Rule 3.

17. Where villages or estates have been granted subject to payment of a quit-rent, Government will not claim to assess any increment until it reaches 10

per cent.; when it exceeds 10 per cent., the whole of the increment will be liable to the ordinary assessment.

18. The same rules which would apply to alienations, or leases of the whole Government share, shall be applicable where only a fractional portion of such share has been alienated, the addition or deduction, as the case may be, being proportioned to the extent to which the rights of Government may in each instance have been alienated.

Example.

A holds a Jághir ¼ of the Government revenue of the village of Syudpur producing 10,000 Rs. per annum.

(*a*) Case. Land producing Rs. 500 per annum is swept away. A. will receive only ¼ of the remaining Rs. 9,500.

(*b*) Case. A similar amount of land is added. A. will then receive ¼ of Rs. 10,500.

(*c*) Case. Land yielding a revenue of Rs. 2,000 is swept away. A. will receive only ¼ of Rs. 8,000.

(*d*) Case. Land yielding Rs. 2,000 is added. A. has still a right to only ¼ of Rs. 10,000.

(*e*) Case. The village in 1848, when the grant was confirmed to A. yielded Rs. 15,000 Government revenue, though latterly, the value has been only Rs. 10,000, In the case if land yielding Rs. 2,000 be added, A. will receive a fourth of the additional Rs. 2,000 as well as of the Rs. 10,000.

19. Claims founded on grants by competent authority, specifying particularly the alienation of alluvial land formed by increment must be decided specially on consideration of the terms of the grant.

20. If cases should arise in the Civil Courts involving questions of alluvion and diluvion, the litigants should be called upon to prove, if possible, the local usage; and by that, if the practice be clear and free from doubt, the Court should decide all cases resulting to alluvial land between the parties where estates may be liable to such usage. Where this proof fails, the Court should decide in the spirit of the above rules.

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